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Democratic Majority Bill # H 1658

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DEMOCRATIC MAJORITY BILL # H 1658

Introduced by Representatives Kiernan, Wrenn,
Ortoleva, Kagan, Kiven and Berk on March 28, 1963

Assigned to House Committee on Special Legislation

AN ACT CONCERNING EQUAL HOUSING OPPORTUNITIES
AND DEFINING FURTHER THE FUNCTIONS, POWERS
AND DUTIES OF THE COMMISSION AGAINST DISCRIMI-
NATION.

It is enacted by the General Assembly as follows:

SECTION 1. Finding and declaration of policy.--In the State of Rhode Island and Providence Plantations, hereinafter referred to as the state, many people are denied equal opportunity in obtaining housing accommodations and are forced to live in circumscribed areas because of discriminatory housing practices based upon race or color, religion or country of ancestral origin. Such practices tend unjustly to condemn large groups of inhabitants to dwell in segregated districts or under depressed living conditions in crowded, unsanitary, substandard and unhealthful accommodations. Such conditions breed inter-group tension as well as vice, disease, juvenile delinquency and crime; increase the fire hazard; endanger the public health; jeopardize the public safety, general welfare and good order of the entire state; and impose substantial burdens on the public revenues for the abatement and relief of conditions so created. Such discriminatory and segregative housing practices are inimical to and subvert the basic principles upon which the Colony of Rhode Island and Providence Plantations was founded and upon which the state and the United States were later established. Discrimination and segregation in housing tend to result in segregation in our public schools and other public facilities, which is contrary to the policy of the state and the constitution of the United States. Further, discrimination and segregation in housing adversely affect urban renewal programs and the growth, progress and prosperity of the state. In order to

aid in the correction of these evils, it is necessary to safeguard the right of all individuals to equal opportunity in obtaining housing accommodations free of such discrimination.

It is hereby declared to be the policy of the state to assure to all individuals regardless of race or color, religion or country of ancestral origin equal opportunity to live in decent, safe, sanitary and healthful accommodations anywhere within the state in order that the peace, health, safety and general welfare of all the inhabitants of the state may be protected and insured.

This act shall be deemed an exercise of the police power of the state for the protection of the public welfare, prosperity, health and peace of the people of the state.

SEC. 2. Right to equal housing opportunities.--The right of all individuals in the state to equal housing opportunities regardless of race or color, religion or country of ancestral origin, is hereby recognized as, and declared to be, a civil right.

SEC. 3. Definitions.-- When used in this act:

(A) The term "person" includes one or more individuals, partnerships, associations, organizations, corporations, legal representatives, trustees, other fiduciaries, or real estate brokers or real estate salesmen as defined in chapter 83 of the public laws, 1959.

(B) The term "housing accommodation" includes any building or structure, or portion thereof, or any parcel of land, developed or undeveloped, which is occupied, or is intended to be occupied, or to be developed for occupancy, for residential purposes, but does not include a room or rooms rented or let to a roomer or lodger within a dwelling unit offered for rent or lease within a two-family dwelling structure one of whose two dwelling units is occupied by the bona fide owner thereof as his bona fide residence.

(C) The term "commission" means the Rhode Island commission against discrimination created by sections 28-5-1 to 28-5-39, inclusive, of the general laws of 1956.

(D) The term "discriminate" includes segregate or separate.

SEC. 4. Unlawful housing practices.--(A) No owner, lessee, sublessee, assignee, managing agent, or other person having the right to sell, rent, lease or manage a housing accommodation as defined in section 3 (B) of this act, or an agent of any of these, shall make or cause to be made any written or oral inquiry concerning the race or color, religion or country of ancestral origin of any prospective purchaser, occupant or tenant of such housing accommodation; or shall refuse to sell, rent, lease, let or otherwise deny to or withhold from any individual such housing accommodation because of the race or color, religion or country of ancestral origin of such individual; or shall issue any advertisement relating to the sale, rental or lease of such housing accommodation which indicates any preference, limitation, specification or discrimination based upon race or color, religion or country of ancestral origin; or shall discriminate against any individual because of his race or color, religion or country of ancestral origin in the terms, conditions or privileges of the sale, rental or lease of any such housing accommodation or in the furnishing of facilities or services in connection therewith.

(B) No person to whom application is made for a loan or other form of financial assistance for the acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation, whether secured or unsecured, shall make or cause to be made any written or oral inquiry concerning the race or color, religion or country of ancestral origin of any individual seeking such financial assistance, or of existing or prospective occupants or tenants of such housing accommodation; nor shall any such person to whom such application is made in the manner hereinbefore provided

discriminate in the terms, conditions or privileges relating to the obtaining or use of any such financial assistance against any applicant because of the race or color, religion or country of ancestral origin of such applicant or of the existing or prospective occupants or tenants.

SEC. 5. Prevention of unlawful housing practices.--

(A) The commission is empowered and directed, as hereinafter provided, to prevent any person from violating any of the provisions of this act, provided that before instituting a formal proceeding it shall attempt by informal methods of conference, persuasion and conciliation to induce compliance with the said sections.

(B) Upon the commission's own initiative or whenever an aggrieved individual or an organization chartered for the purpose of or engaged in combating discrimination or racism or of safeguarding civil liberties, such organization acting on behalf of one or more individuals being hereinafter referred to as the complainants, makes a complaint, in writing, under oath, to the said commission that any person, agency, bureau, corporation or association, hereinafter referred to as the respondent, has violated or is violating, to the best of complainant's knowledge and belief, any of the provisions of this act, the said commission may initiate a preliminary investigation and if it shall determine after such investigation that it is probable that unlawful housing practices have been or are being engaged in, it shall endeavor to eliminate such unlawful housing practices by informal methods of conference, conciliation, and persuasion. Nothing said or done during such endeavors may be used as evidence in any subsequent proceeding. If after such investigation and conference, the commission is satisfied that any unlawful housing practice of the respondent will be eliminated, it may, with the consent of the complainant, treat the complaint as conciliated, and entry of such disposition shall be made on the records of the commission.

If the commission fails to effect the elimination of such unlawful housing practices and to obtain voluntary compliance with this act, or, if the circumstances warrant, in advance of any such preliminary investigation or endeavors, the commission shall have the power to issue and cause to be served upon any person or respondent a complaint stating the charges in that respect and containing a notice of hearing before the commission, a member thereof, or a hearing examiner at a place therein fixed to be held not less than ten days after the service of such complaint. Any complaint issued pursuant to this section must be so issued within one year after the alleged unfair housing practices were committed.

(C) The commission, member thereof, or hearing examiner conducting the hearing shall have the power reasonably and fairly to amend any written complaint at any time prior to the issuance of an order based thereon. The respondents shall have like power to amend its answer to the original or amended complaint at any time prior to the issuance of such order. The commissioner assigned to the preliminary hearing of any complaint shall take no part in the final hearing except as a witness upon competent matters and will have no part in the determination or decision of the case after hearing.

(D) The respondent shall have the right to file an answer to such complaint and shall appear at such hearing in person, or otherwise, with or without counsel to present evidence and to examine and cross-examine witnesses.

(E) In any such proceeding the commission, its member, or its agent shall not be bound by the rules of evidence prevailing in the courts of law or equity.

(F) The commission shall in ascertaining the practices followed by the respondent, take into account all evidence, statistical or otherwise, which may tend to prove the existence of a predetermined pattern of discrimination in housing.

(G) The testimony taken at the hearing shall be under oath and shall be reduced to writing and filed with the commission. Thereafter, in its discretion, the commission upon notice may take further testimony or hear argument.

(H) If upon all the testimony taken the commission shall determine that the respondent has engaged in or is engaging in unlawful housing practices, the commission shall state its findings of fact and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such unlawful housing practices, and to take such further affirmative or other action as will effectuate the purposes of this act.

(I) If the commission shall find that no probable cause exists for crediting the charges, or, if upon all the evidence, it shall find that a respondent has not engaged in unfair housing practices, the commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the said complaint as to such respondent. A copy of the order shall be delivered in all cases to the attorney general and such other public officers as the commission deems proper.

(J) Until a transcript of the record in a case shall be filed in a court as hereinafter provided, the commission may at any time, upon reasonable notice, and in such manner as it shall deem proper, modify or set aside, in whole or in part, any of its findings or orders.

(K) Until the commission shall determine that a cease and desist order shall be issued, no publicity shall be given to any proceedings before the commission, either by the commission or any employee thereof, the complainant, or the respondent, provided that the commission may publish the facts in the case of any complaint which has been dismissed.

If any individual, prior to resorting to the procedures established by this act, shall wilfully make available for publication information purporting to establish an unlawful

housing practice against him, he may not subsequently resort to the procedures established by this act.

SEC. 6. Judicial review and enforcement.---(A) Any complainant, intervener, or respondent claiming to be aggrieved by a final order of the commission may obtain judicial review thereof, and the commission may obtain an order of court for its enforcement, in a proceeding as provided in this section. Such proceeding shall be brought in the superior court of the state within any county wherein the unlawful housing practices which are the subject of the commission's order were committed or wherein any respondent, required in the order to cease and desist from unfair housing practices or to take other affirmative action, resides or transacts business.

(B) Such proceeding shall be initiated by the filing of a petition in such court, together with a transcript of the record upon the hearing before the commission, and the service of a copy of the said petition upon the commission and upon all parties who appeared before the commission. Thereupon the court shall have jurisdiction of the proceeding and of the questions determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript an order enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the commission.

(C) An objection that has not been urged before the commission, its member, or agent shall not be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

(D) If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the commission,

its member, or agent, the court may order such additional evidence to be taken before the commission, its member, or agent and to be made a part of the transcript.

(E) The commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed. The commission shall file such modified or new findings and its recommendations, if any, for the modification or setting aside of its original order.

(F) The jurisdiction of the court shall be exclusive and its judgment and order shall be, when necessary, subject to review by the supreme court as provided by law, to which court appeal from such judgment and order may be made as provided by law.

(G) The commission's copy of the testimony shall be be available at all reasonable times to all parties without cost for examination and for the purposes of judicial review of the order of the commission. The petition shall be heard on the transcript of the record without requirement of printing.

(H) The commission may appear in court by its own attorneys.

(I) If no proceeding to obtain judicial review is instituted by a complainant, intervener, or respondent within thirty days from the service of an order of the commission pursuant to section 5 (H) hereof, the commission may obtain a decree of the court for the enforcement of such order upon showing that respondent is subject to the commission's jurisdiction, and resides or transacts business within the county in which the petition for enforcement is brought.

(J) The said commission may proceed in the same manner as provided in title 28-5-13 of the general laws of 1956, as to the powers, duties and rights of the commission, its members, hearing examiners, the complainant, intervener and respondent.

SEC. 7. Educational program.--(A) In order to eliminate the discriminatory practices, based upon race or color, religion or country of ancestral origin, and the resulting

conditions therefrom, as more fully set forth in section 1 hereof, the commission and the state department of education are jointly directed to prepare a comprehensive educational program, designed for the students of the public schools of this state and for all other residents thereof, calculated to emphasize the origin of prejudice against minority groups, its harmful effects, and its incompatibility with American principles of equality and fair play.

(B) The commission is hereby authorized to accept contributions from any person to assist in the effectuation of this section and may seek and enlist the cooperation of private charitable, religious, labor, civic, and benevolent organizations for the purposes of this section.

SEC. 8. Appropriation.--The general assembly shall annually appropriate, out of any money in the treasury not otherwise appropriated, such sum as it may deem necessary to carry out the purposes of this act; and the state controller is hereby authorized and directed to draw his orders upon the general treasurer for the payment of said sum or so much thereof as may be required from time to time upon the receipt by him of properly authenticated vouchers.

SEC. 9. Construction.--The provisions of this act shall be construed liberally for the accomplishment of the purposes intended and any provisions of any law inconsistent with any provisions hereof shall not apply. Nothing contained in this act shall be construed to repeal any of the provisions of any law of the state prohibiting discrimination based upon race or color, religion or country of ancestral origin.

SEC. 10. Separability.--If any clause, sentence, paragraph, or part of this act or the application thereof to any person or circumstance shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this act or its application to other persons or circumstances.

SEC. 11. Short title.--This act may be cited as the Rhode Island fair housing practices act.

SEC. 12. Effective date.--This act shall take effect upon its passage.